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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,927	09/30/2003	Kimberly A. Morales	03007	8475

30114 7590 10/15/2004

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EXAMINER

BLANKENSHIP, GREGORY A

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,927

Applicant(s)

MORALES, KIMBERLY A.

Examiner

Greg Blankenship

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-39, 47 and 49-56 is/are allowed.
- 6) ☒ Claim(s) 40-45 and 48 is/are rejected.
- 7) ☒ Claim(s) 46 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/30/03
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 48 is not clearly understood since it appears to be a dependent claim, but there is no claim listed after "The liner-dispensing trash receptacle system of claim". Please either include the claim from which it depends in the first line or amend the claim so that it is clearly an independent claim. The claim has been assumed to depend from claim 47.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reason (6,126,031) in view Gellos (5,887,834).

Reason discloses a trash can (20) having an interior divider (50) with an aperture. The aperture allows trash bags (24) to extend from the lower inferior volume to the upper superior volume. The roll of trash bags (24) is as of the same construction as those claimed

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by applicant. The trash can (20) is made of a pliable plastic material. Reason does not disclose the claimed vertical member attachment means.

Gellos teaches the use of an elongate strap (32) to secure a trash can (20) to the vertical surface of post (12). The elongate strap is secured to a superior located member (30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use an elongate strap secured to a vertical surface to secure the trash can of Reason, as taught by Gellos, to prevent accidental tipping of the trash can by young children or animals.

5. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of references, as applied to claim 42, in view of Gola (5,628,424).

Reason, as modified, does not disclose the claimed lid.

Gola teaches the attachment of a lid (310) to a trash can. The lid having a lip (325) that engages the front of the trash can's rim.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to attach a lid with a lip that engages a rim of a trash can to the trash can of Reason, as modified, as taught by Gola, to prevent young children and animals from digging through the trash.

Allowable Subject Matter

6. Claim 46 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 1-39, 47, and 49-56 are allowed.

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8. Claim 48 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is (703) 305-0223.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, D.C. 20231

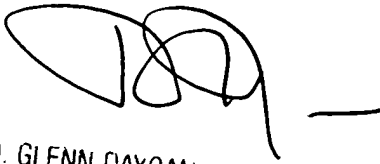
Or faxed to:

(703) 872-9306, (for formal communications intended for entry)

or:

(703) 746-3511, (for informal or draft communications, please clearly label "FOR DISCUSSION PURPOSES ONLY", "PROPOSED" or "DRAFT")

gab
September 30, 2004


D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

9/30/04